

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company Approval of Economic Development Rate for 2013-2017 (U 39E)	Application 12-03-001 (Filed March 1, 2012)
---	--

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTION TO DECISION D. 13-10-019**

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 13-10-019
Claimed: \$76,962.37	Awarded: \$75,193.62 (reduced 2.3%)
Assigned Commissioner: Michael Picker	Assigned ALJ: ALJ Division¹

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	The decision authorizes Pacific Gas and Electric Company (PG&E) to offer both a Standard and Enhanced Economic Development Rate (EDR) tariff subject to certain ratepayer protections. The Standard EDR option provides a 12% discount off the otherwise applicable tariff, and the Enhanced EDR option provides a 30% discount off the otherwise applicable tariff.
--	--

**B. Claimant must satisfy intervenor compensation requirements set forth in Public
Utilities Code §§ 1801-1812:**

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	May 17, 2012	Verified
2. Other Specified Date for NOI:	----	
3. Date NOI Filed:	May 23, 2012	Verified
4. Was the NOI timely filed?		Yes

¹ This proceeding was originally assigned to ALJ Richard Clark.

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	See comment 1	R11-11-008
6. Date of ALJ ruling:	See comment 1	January 03, 2012
7. Based on another CPUC determination (specify):	See comment 1	
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.11-11-008	Verified
10. Date of ALJ ruling:	January 3, 2012	Verified
11. Based on another CPUC determination (specify):	-----	
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-10-019	Verified
14. Date of Issuance of Final Order or Decision:	10/9/2013	Verified
15. File date of compensation request:	12/2/2013	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	X		TURN understands that the ALJ Division has adopted a practice of only issuing a formal ruling on an intervenor’s notice of intent if the intervenor is seeking to demonstrate significant financial hardship, rather than relying on the rebuttable presumption created by an earlier finding of hardship. TURN’s showing on financial hardship (relying on the rebuttable presumption) and customer status was contained in our NOI. TURN has previously been found to satisfy these two standards -- for example see ALJ ruling on January 3, 2012 in Rulemaking 11-11-008.

PART II: SUBSTANTIAL CONTRIBUTION**A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
Discount Level - Price Floor	Opening Brief of The Utility Reform Network in Application	

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
<p>1. TURN argued against PG&E's proposal to discard the requirement under previous EDR programs that the discounted EDR rate recover, at a minimum, the marginal cost of service plus the customer's full share of nonbypassable costs ("price floor"). TURN argued that price floors are necessary ratepayer safeguards that ensure nonbypassable rate components are not discounted and that the marginal costs of serving customers participating in the EDR program are not shifted to non-participating customers.</p> <p>The Commission agreed, stating, "Price floors have been a critical component of all EDR programs previously authorized by the Commission." The Commission further stated, "Price floors have ensured that the minimum rate for any customer reflected the annual payment of the marginal costs of providing service and the payment of all NBCs."</p>	<p>(A.)12-03-001, January 4, 2013, p. 4.</p> <p>D.13-10-019, Findings of Fact 12 and 13, p. 40.</p>	Yes
<p>Discount Level – Reasonableness of proposed discount</p> <p>2. TURN opposed PG&E's proposed 35% discount for Enhanced EDR customers because the steep discount with no price floor was likely to result in negative contribution to margin ("CTM").</p> <p>The Commission agreed, that a 35% discount was not reasonable and, instead, set an Enhanced EDR discount of 30%.</p>	<p>Opening Brief of The Utility Reform Network in Application 12-03-001, January 4, 2013, p. 5.</p> <p>D.13-10-019, Finding of Fact 25, p. 41.</p>	Yes, but duplicative, mostly supported Office of Ratepayer Advocates (ORA) Proposal.
<p>Ratepayer Protections – Program Cap</p> <p>3. TURN opposed PG&E's proposal to remove the 200MW cap on the EDR program because the cap is necessary to limit the number of free riders and lower non-participating ratepayers' total expose to risk. TURN argued that PG&E had not provided any evidence that the 200MW cap would restrict future enrollment in the EDR program.</p>	<p>Opening Brief of The Utility Reform Network in Application 12-03-001, January 4, 2013, pp. 6-7.</p>	Yes

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
The Commission agreed and stated that the programmatic cap provides a reasonable "check-in" opportunity to review the program.	D.13-10-019, p. 31.	
<p>Ratepayer Protections – Regulatory Oversight</p> <p>4. Local Government Parties ("LGP") and PG&E argued that the level of regulatory oversight in previous EDR programs was responsible for the failings of the programs. TURN, however, argued that the EDR program must retain strong ratepayer protections while reducing barriers to attracting customers to the program and cross-examined LGP's witness on this issue.</p> <p>TURN's cross-examination, in part, resulted in the Commission's determination that there was no need for fundamental change in its regulatory oversight of PG&E's EDR program.</p>	<p>D.13-10-019, p. 22 ("The risk of overly burdensome requirements for program qualification and participation are the primary concern of the LGP...")</p> <p>See Opening Brief of The Utility Reform Network in A.12-03-001, January 4, 2013, p. 2, 10-11.</p> <p>D.13-10-019, pp. 23-26; <i>see</i> particularly p. 25, fn. 37 and fn. 38.</p>	Yes

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?²	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Marin Energy Authority, The Greenlining Institute, Alliance for Retail Energy Markets, Merced Irrigation District/Modesto Irrigation District, Joint Parties (Black Economic Council, National Asian American Coalition, Latino Business Chamber of Greater Los Angeles)		Verified

² The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

<p>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p>	<p>Verified, but some duplication still occurred.</p>
<p>TURN coordinated with DRA and other parties to the extent practicable. TURN's position was most similar to that of DRA, and, accordingly, TURN spent time coordinating with DRA to avoid duplication of effort. TURN held several meetings with DRA in an effort to determine where shared positions could be reached. TURN focused on areas that strengthened joint opposition to PG&E's proposed program but did not duplicate DRA's efforts to craft a alternate EDR program.</p>	
<p>Parties spent significant time in settlement discussions during September and October of 2012. During settlement discussions, TURN also coordinated its efforts with that of DRA to avoid duplication of effort.</p>	
<p>Although TURN opposed PG&E's program like MEA, Greenlining, AReM, Mer/Mod ID, and the Joint Parties did, TURN did not focus on the competitive aspects of the program raised by MEA, AReM, and Mer/Mod ID, nor did TURN focus on the low income and minority business owners issues raised by Greenlining and the Joint Parties focused.</p>	

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

<p>a. Intervenor's Claim of Cost Reasonableness</p>	<p>CPUC Verified</p>
<p>Assigning a specific dollar value to TURN's participation in this proceeding is extremely difficult because the cost impacts of PG&E's Standard and Enhanced EDR programs are unknown at this time. TURN's participation, however, directly benefitted ratepayers by persuading the Commission to reduce the Enhanced EDR discount, decline to reduce regulatory oversight, and maintain ratepayer protections in the EDR program such as the price floor and the total program cap. TURN's participation helped to minimize the negative contribution to margin and the number of free riders from this program, both of which would have monetary impacts on non-participating ratepayers since they would otherwise have had to cover the costs of negative CTM and free riders.</p>	<p>Verified</p>
<p>In the past, the Commission has acknowledged that assigning a dollar value to intangible benefits may be difficult, and the Commission should treat this compensation request as it has treated similar past requests with regard to the difficulty of establishing specific monetary benefits associated with TURN's participation.³</p>	

³ See, i.e., D.99-12-005, pp. 6-7 (Compensation Decision in 1995 Storm Phase of PG&E GRC, A.97-12-020) and D. 00-04-006, at 9-10 (Compensation Decision in Edison PBR Midterm Review, A.99-03-020) (recognizing the overall benefit of TURN's participation where that participation assisted the Commission in developing a record on which to assess the reasonableness of the utility's operations, and particularly its preparedness and performance in the future); D.00-05-022 (Compensation Decision in the Emergency Standards Proceeding) (awarding TURN \$92,000 in D.00-10-014 for our substantial

<p>b. Reasonableness of Hours Claimed.</p> <p>TURN assigned a number of attorneys to work on various pieces of this proceeding. Robert Finkelstein was initially assigned as lead attorney and conducted much of the initial review of the application, including issuing discovery requests, formulating TURN's litigation strategy, and coordinating with DRA. Hayley Goodson was only briefly assigned to assist with evaluating PG&E's application for its impacts on affordability and unemployment for non-participating ratepayers at the outset of the proceeding due to her expertise on these issues. In mid July 2012, Marcel Hawiger was assigned to take over as lead attorney on the proceeding, but, due to conflicts with other proceedings, Mr. Hawiger had to turn over the proceeding to Nina Suetake. Ms. Suetake was then primarily responsible for all aspects of the proceeding, but Mr. Finkelstein continued to assist Ms. Suetake in an advisory capacity and by participating in settlement discussions when Ms. Suetake could not attend the meetings.</p> <p>Although TURN assigned 4 attorneys to this proceeding, the attorneys largely worked on this proceeding at separate times and on distinct issues. Mr. Finkelstein and Ms. Suetake also collaborated to craft settlement position and litigation strategy to limit duplication of effort.</p>	Verified
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated all of our attorney and consultant time by issue area or activity, as evident on the attached timesheets. The following codes related to specific substantive issue and activity areas addressed by TURN. TURN also provides an approximate breakdown of the number of hours spent on each task and the percentage of total hours devoted to each category.</p> <p>General Participation (GP) – 98 hours, 46%</p> <p>General participation work essential to TURN's participation in this proceeding that typically spans multiple issues and/or would not vary with the number of issues that TURN addresses. This includes reading the initial application, drafting of protests, reviewing Commission rulings, case management tasks (other than coordination with DRA), participating in prehearing conferences and all-party meetings, and reviewing the Proposed decision, notices, and motions.</p> <p>Level of Discount (D) – 24.5 hours, 11.5%</p> <p>Denotes time spent on the reasonableness of PG&E's proposed EDR discount, including the lack of price floor and whether the discounted rates would result in negative CTM.</p>	Verified

contribution to the earlier decision, despite TURN's inability to assign a dollar value to the benefit of our participation in order to demonstrate "productivity." Interestingly, the Commission awarded compensation even though the emergency restoration standards may never come into play in the future, since they come into play only after a "major outage," which is defined as impacting more than 10% of a utility's customers. The contingent nature of the future standards did not cause the Commission to hesitate in awarding TURN compensation.).

<p>Other Ratepayer Protections (RP) – 33 hours, 15.5% Denotes time spent on regulatory oversight of the EDR program, reduction of free riders and additional ratepayer protections.</p> <p>Settlement Discussions (Sett) – 26 hours, 12% Denotes time spent on settlement discussions and coordinating positions with other parties for settlement purposes.</p> <p>General Hearing (GH) – 19 hours, 9% Time spent participating in the prehearing conference and evidentiary hearings.</p> <p>Coordination (Coord) – 5.25 hours, 2.5% Time devoted to coordinating with DRA for the purpose of reducing duplication of effort and determining common support for specific issues and proposals.</p> <p>Compensation Request (Comp) – 7.75 hours, 3.5% Time devoted to preparing the NOI and compensation request</p> <p>-----</p> <p>TURN attorneys used # to describe time devoted to a mix of issues with 50% of the hours allocated to the Level of Discount (D) and 50% of the hours allocated to Other Ratepayer Protections (RP). These hours have been incorporated into the totals listed above.</p>	
--	--

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Nina Suetake	2012	57	315	D.13-08-022	17955	55.75	\$315.00 ⁴	\$17,561.25
Nina Suetake	2013	62	320	D.13-08-022 and Res. ALJ-287 (2% increase); <i>See</i> Comment 1	19840	62	\$320.00 ⁵	\$19,840.00
Robert Finkelstein	2012	57.5	480	D.13-08-022	27600	56.5	\$480.00 ⁶	\$27,120.00
Robert Finkelstein	2013	7.5	490	D.13-08-022 and Res. ALJ-287 (2% increase); <i>See</i> Comment 1	3675	7.5	\$490.00 ⁷	\$3,765.00

⁴ Approved in D.13-12-028⁵ Approved in D.14-02-014.⁶ Approved in D.13-11-022.⁷ Approved in D.14-08-022.

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Hayley Goodson	2012	2.75	325	D.13-08-022	893.75	2.75	\$325.00 ⁸	\$893.75
Marcel Hawiger	2012	6.25	375	D.13-08-022	2343.75	5.25	\$375.00 ⁹	\$1,968.75
William Marcus	2012	12.01	260	D.13-08-022	3122.6	10.01	\$260.00 ¹⁰	\$2,602.6.00
William Marcus	2013	0.75	260	See Comment 2	195	.75	\$260.00	\$195.00
Subtotal: \$ 75,625.10						Subtotal: \$73,856.35		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Finkelstein	2012	0.5	240	1/2 of \$480, authorized in D.13-08-022	120	0.5	\$240.00	\$120.00
Nina Suetake	2013	7.25	160	1/2 of 2013, D.13-08-022 and Res. ALJ-287; See Comment 1	1160	7.25	\$160.00	\$1,160.00
Subtotal: \$ 1280						Subtotal: \$1,280.00		
COSTS								
#	Item	Detail			Amount	Amount		
1	Photocopies	Copies of pleadings for this proceeding			13.4	\$13.40		
2	Lexis Research	Legal research relevant to TURN's participation			28.17	\$28.17		
3	Postage	For mailing pleadings			11.8	\$11.80		
4	Phone	Telecommunications related to this proceeding			3.9	\$3.90		
Subtotal: \$ 57.27						Subtotal: \$57.27		
TOTAL REQUEST: \$76,962.37						TOTAL AWARD: \$75,193.62		

⁸ Approved in D.13-11-022.⁹ Approved in D.13-12-028.¹⁰ Approved in D.13-09-022.

*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

**Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.

Attorney	Date Admitted to CA BAR¹¹	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Robert Finkelstein	June 13, 1990	146391	No
Marcel Hawiger	January 23, 1998	194244	No
Hayley Goodson	December 5, 2003	228535	No
Nina Suetake	December 14, 2004	234769	No

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
Attach 1	Certificate of Service
Attach 2	Daily Time Records for Attorneys and Experts
Attach 3	Expense detail
Attach 4	TURN Hours Allocated by Issue
Comment 1	<p>Hourly Rates for TURN Attorneys</p> <p>TURN seeks hourly rates for its staff attorneys at levels that the Commission has previously adopted for each individual's work in a given year, or at an increased level for 2013 consistent with Resolution ALJ-278. The following describes the basis for the requested rates that have not been previously awarded as of the date of this Request for Compensation.</p> <p><u>Nina Suetake in 2013</u></p> <p>Consistent with the Cost-of-Living Adjustment authorized by Resolution ALJ-278, the hourly rate for Nina Suetake in 2013 is increased by 2.2% to \$320 (rounded to the nearest \$5 increment from \$321.93). TURN has previously requested this hourly rate for Ms. Suetake in its compensation request for A.07-06-031.</p> <p><u>Robert Finkelstein in 2013</u></p> <p>Consistent with the Cost-of-Living Adjustment authorized by Resolution ALJ-278, the hourly rate for Robert Finkelstein in 2013 is increased by 2.2% to \$490 (rounded to the nearest \$5 increment from \$490.56). TURN has previously requested this hourly rate for Mr. Finkelstein in its compensation requests for A.10-12-005/006, and A.07-06-031.</p>

¹¹ This information may be obtained at: <http://www.calbar.ca.gov/>.

Comment 2	Hourly Rate for William Marcus in 2013 William Marcus' 2012 hourly rate continued in effect in early 2013, as JBS Energy did not increase their hourly rates until March 2013.
-----------	--

D. CPUC Disallowances and Adjustments:

Item	Reason
A	On certain issues, TURN participation was limited and was mainly supportive of ORA's proposals and arguments. The Commission therefore reduces TURN's award for the 5.5 hours spent on coordination.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes

FINDINGS OF FACT

- TURN has made a substantial contribution to Decision 13-10-019.
- The requested hourly rates for TURN's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
- The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
- The total of reasonable compensation is \$75,193.62.

CONCLUSION OF LAW

The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$75,193.62.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay The Utility Reform Network (TURN) the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month, non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning February 15, 2014, the 75th day after the filing of TURN's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1310019		
Proceeding(s):	A1203001		
Author:	ALJ Division		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	12/02/13	\$76,962.37	\$75,193.62	N/A	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Nina	Suetake	Attorney	The Utility Reform Network	\$315.00	2012	\$315.00
Nina	Suetake	Attorney	The Utility Reform Network	\$320.00	2013	\$320.00
Robert	Finkelstein	Attorney	The Utility Reform Network	\$480.00	2012	\$480.00
Robert	Finkelstein	Attorney	The Utility Reform Network	\$490.00	2013	\$490.00
Hayley	Goodson	Attorney	The Utility Reform Network	\$325.00	2012	\$325.00
Marcel	Hawiger	Attorney	The Utility Reform Network	\$375.00	2012	\$375.00
William	Marcus	Expert	The Utility Reform Network	\$260.00	2012	\$260.00
William	Marcus	Expert	The Utility Reform Network	\$260.00	2013	\$260.00

(END OF APPENDIX)